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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Bruce Buffam

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Sanjeet K. Dutta
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Seventh Floor
12400 Wilshire Boulevard
Los Angeles, CA 90025-1026

EXAMINER

VINCENT, DAVID ROBERT

ART UNIT

PAPER NUMBER

2661

DATE MAILED: 10/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823,808

Applicant(s)

BUFFAM, BRUCE

Examiner

David R Vincent

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35

U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-15, and 17-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Setting up a non-multiplexed link (later claimed as an ATM link) is not disclosed. It is the examiner's position that packet switched links such as ATM AAL2 and even PSTN links using T1 lines are in fact multiplexed. A non multiplexed link would imply a direct connection as in a piece of fiber/copper run between the source and destination. (see e.g., Tomlins/US 6,618,383: col. 5, lines 28-41).

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3. Due to the indefiniteness of the limitation as explained in the 35 USC § 112 rejection, the following rejections are based upon the broadest interpretation of the claims, disregarding the limitation of the "non-multiplexed" link.

Below are a plurality of rejections since the examiner is not sure what it meant by "non-multiplexed". Some claims are rejected twice.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goguen (US 6,665,273) in view of Tomlins (US 6,618,383).

Goguen discloses a digital comm. network (Figs. 4-5), checking a multiplexed connection's bandwidth/BW (monitor flow, col. 4, lines 53-65; track bytes, col. 5, lines 11-27; col. 7, lines 51-64; see 520, Fig. 5; 600, Fig. 6; 700, Fig. 7; 810,

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Fig. 8; 912, Fig. 9; col. 2, lines 23-32; col. 3, lines 42-44;) when muxed link has insufficient BW overflow call onto another link (onto TE tunnel, col. 3, lines 6-20; col. 3, lines 41-44), adding a single connection (a TE link, e.g., col. 3, lines 6-20), using a computer readable medium (540, Fig. 5; 600, Fig. 6; 700, Fig. 7; 810, Fig. 8; 912, Fig. 9, especially 612, and 614, Fig. 6 and respective disclosure, e.g., col. 7, lines 15-35), a processor coupled to a bus (540, Fig. 5; 612 connected to 616, Fig. 6), a storage device (540, Fig. 5; 600, Fig. 6; 700, Fig. 7; 810, Fig. 8; 912, Fig. 9, especially 612, and 614), a buffer for storing calls (router's input/output buffers for storing packets while they are processed and the labels are read/popped, 614, 720). However, Goguen fails to particularly call for calls as in voice calls and AAL2.

Tomlins teaches using AAL2 with MPLS and voice (col. 2, lines 14-21; col. 5, lines 13-50; Figs. 1, 9, 11).

It would have been obvious to use AAL2 with the ATM/MPLS network because AAL2 de-couples voice packets from ATM cell boundaries (Tomlin: col. 2), multiplexing may be payload from a single device and AAL2 is merely part of the ATM protocol. Sending voice into the MPLS connected Internet, allows for better QoS and lower cost to end users. Using AAL2 amounts to using more of the available features of the ATM protocol. By

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using AAL2 the voice packets can be sent out without having to wait for a 48 byte payload (of an ATM cell) to fill up and the delay can be kept low.

Claim Rejections - 35 USC § 103

6. Claims 1-3, 6-8, 11-13, 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Goguen (US 6,665,273) in view of 1999 IEEE article by Awduche.

Goguen discloses a digital comm. network (Figs. 4-5), checking a multiplexed connection's bandwidth/BW (monitor flow, col. 4, lines 53-65; track bytes, col. 5, lines 11-27; col. 7, lines 51-64; see 520, Fig. 5; 600, Fig. 6; 700, Fig. 7; 810, Fig. 8; 912, Fig. 9; col. 2, lines 23-32; col. 3, lines 42-44;) when muxed link has insufficient BW overflow call onto another link (onto TE tunnel, col. 3, lines 6-20; col. 3, lines 41-44), adding a single connection (a TE link, e.g., col. 3, lines 6-20), using a computer readable medium (540, Fig. 5; 600, Fig. 6; 700, Fig. 7; 810, Fig. 8; 912, Fig. 9, especially 612, and 614, Fig. 6 and respective disclosure, e.g., col. 7, lines 15-35), a processor coupled to a bus (540, Fig. 5; 612 connected to 616, Fig. 6), a storage device (540, Fig. 5; 600, Fig. 6; 700, Fig. 7; 810, Fig. 8; 912, Fig. 9, especially 612, and 614), a buffer for storing calls (router's input/output buffers for storing packets while they are processed and the labels are read/popped,

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614, 720). However, Goguen fails to particularly call for calls as in voice calls.

Since all data is sent over a packet-based network all data is converted into digital ones and zeros. Whether the original data was voice, video or text, is not critical to Goguen other than giving various packets their own priority (col. 1, lines 42-57.

Awduche teaches that one of the types of data input into the MPLE TE network can be voice calls (pg. 42), that ATM can be used (pg. 44), that capacity can be exceeded (pg. 44), that traffic can be moved onto another connection when the first connection is overloaded (pg. 45), overbooking and parallel connections (pg. 46).


It would have been obvious to use voice calls because as Awduche teaches the Internet can carry voice, video and data together and that their can be at least eight priority levels. Sending voice into the MPLS connected Internet, allows for better QoS and lower cost to end users.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David R Vincent whose telephone number is 571 272 3080. The examiner can normally be reached on M-TH.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye can be reached on 571 272 3078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David R Vincent
Primary Examiner
Art Unit 2661

October 7, 2004